



Comptroller General  
of the United States  
Washington, D.C. 20548

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## Decision

**Matter of:** Dial Page, Inc.

**File:** B-256210

**Date:** May 16, 1994

Roland M. Lowell, Esq., Leitner, Warner, Moffitt, Williams, Dooley, Carpenter & Napolitan, for the protester.  
Lane C. Avery, Esq., Gearhiser, Peters & Horton, for Cellular Page, Inc., an interested party.  
Ronald E. Cone, Department of Energy, for the agency.  
Andrew T. Pogany, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

1. Where request for proposals for paging system specifically allows the successful offeror 60 days after contract award to implement the system (including all components) and bring it into compliance at that time with the specifications, question of whether successful contractor in fact can or will successfully implement the system is a matter of contract administration, which the General Accounting Office does not review.
2. Where protest contains general allegations of improprieties which are only supported with detailed reasons in subsequent comments on an agency report, General Accounting Office will dismiss the protest grounds as untimely because our Bid Protest Regulations do not permit the unwarranted piecemeal development of protest issues.
3. Protest of other than apparent solicitation improprieties must be filed within 10 working days after the basis of the protest is known, or should have been known; when a protester initially files a timely protest and later supplements it with new and additional grounds of protest, the new allegations must independently satisfy our timeliness requirements.

### DECISION

Dial Page, Inc. protests the award of a subcontract to Cellular Page, Inc. under request for proposals (RFP) No. 63-CP681, issued by Martin Marietta Energy Systems, Inc. (MMES), a management and operating prime

contractor for the Department of Energy, for paging services for facilities in Oak Ridge, Tennessee. The protester alleges that Cellular Page's proposal should have been rejected as technically unacceptable because it failed to meet the RFP's specifications.

We dismiss the protest in part and deny it in part.

The RFP, issued September 24, 1993, sought proposals for wide area and local area paging services to support normal and contingency operations of the Oak Ridge facilities. The RFP contained numerous technical specifications and systems requirements that the paging services had to meet.<sup>2</sup> The RFP required each offeror to submit a section-by-section response to each technical requirement and a separate pricing schedule. The RFP contemplated a subcontract with a base period of 2 years with two 1-year options. The RFP stated that award would be based on the lowest life-cycle-priced, technically acceptable offer.

MMES received four proposals by the closing date of October 12, 1993. Each offeror was requested to supply sample pagers (alphanumeric and numeric types) for comprehensive field testing by MMES personnel. MMES personnel took the pagers to the same 216 separate locations (indoors and outdoors) within a 50-mile radius of Oak Ridge; transmitting call times and pager receipt times were recorded. MMES states that the purpose of the testing was to provide information which would allow the vendors to determine what kinds of system hardware might be necessary to comply with the specifications and not to determine whether each vendor met MMES' service needs before award.<sup>3</sup>

MMES requested best and final offers (BAFO) on November 24, 1993. Each offeror was given the results of the testing of its pagers as well as general questions, specific questions for each offeror, and site maps to aid in interpreting test

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<sup>1</sup>All parties agree that our Office has jurisdiction concerning this subcontract award under 4 C.F.R. § 21.3(m)(10) (1993).

<sup>2</sup>The paging system solicited by MMES included the furnishing of hardware, firmware, software, and maintenance support to initiate, operate, and maintain the paging services.

<sup>3</sup>MMES recognized that to meet the efficiency requirements of the RFP, an offeror would have to install additional transmitters on government property; such installation was not allowed before award. As discussed below, the RFP therefore granted offerors 60 days after award to comply with various requirements.

results. BAFOs were received by the closing date of December 9. As relevant here, MMES ultimately determined that Dial Page's and Cellular Page's proposals were technically acceptable; since Cellular Page's proposal was lower priced, MMES made award to that firm on January 3, 1994. This protest followed.

In its initial protest, Dial Page generally alleged that Cellular Page "failed to meet the specifications of the [RFP] which require 98 percent efficiency"; "failed to meet specifications of the [RFP] for penetration of the market area"; and "failed to propose a redundant system." No further explanation or elaboration of the particular specifications or areas of alleged noncompliance by Cellular Page was furnished by the protester.<sup>4</sup>

In the agency report, MMES responded to the protester's three allegations. Concerning the 98 percent efficiency requirement, MMES stated that it assumed that the protester was referring to specification sections 3.3.1 and 3.3.3, which allow no more than a 2-percent probability that pages too "wide" and "contingency" areas will not be completed. MMES states, however, and our review confirms, that specification section 2.0 allows the successful offeror 60 days after contract award to implement the paging system (including all components) and bring it into compliance with the specifications. The section only required a detailed plan for implementation of services. Since the protester has not challenged Cellular Page's plan for implementation (which was included with its offer), we think the issue of whether Cellular Page in fact can or will successfully implement the system is a matter of contract administration, which our Office does not review. See 4 C.F.R. § 21.3(m)(1). We dismiss this protest ground.

Concerning the alleged failure of Cellular Page to meet the specification for "penetration of the market area" (which the agency assumed referred to areas other than "wide" and "contingency" areas as defined in the specification's glossary), the agency again states, and the record shows,

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<sup>4</sup>In its initial protest, Dial Page also essentially alleged that Cellular Page commenced purchasing pagers for the proposed subcontract prior to official notification of award, implying that some impropriety or "leak" occurred prior to the time of award. Dial Page also mentioned certain unidentified "misrepresentations with respect to Cellular Page's test results." The protester did not pursue these allegations in its comments; we deem them abandoned. See Knoll North Am., Inc., B-250234, Jan. 11, 1993, 93-1 CPD ¶ 26.

that the RFP permitted Cellular Page until 60 days after contract award to meet this requirement. We dismiss this ground of protest for the same reason as its previous argument.

Concerning the third issue, MMES states that it assumes that the protester is referring to section 3.4 of the specifications which requires that the proposed system "incorporate redundancy to insure that a single failure at any point in the system will not interrupt service." The agency states that this section also requires that the redundancy include a backup power system, emergency group call, and a backup terminal in a different location accessible by MMES. MMES states, and the record shows, that Cellular Page proposed and explained in different sections of its BAFO (including a flowchart illustration) the operation of its redundant system. MMES' technical personnel found that Cellular Page's responses met the requirements; the protester has offered no evidence or argument to rebut this finding by the agency. Accordingly, we deny this protest ground.

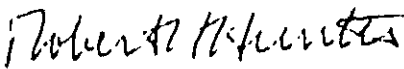
In its comments on the agency report, the protester, for the first time, presents specific detailed arguments concerning the alleged unacceptability of Cellular Page's proposal, including additional grounds of protest. For example, in its comments, the protester argues that: (1) Cellular Page's paging system operates on a shared frequency (462.800 MHz), which will prevent the firm from meeting the RFP's specifications for reliability; (2) Cellular Page cannot meet the specification which requires that the maximum delivery time for all pages entered, whether individual or group, shall not be greater than 6 minutes from the time of call to termination; (3) Cellular Page's wide area paging service for outside of the Oak Ridge area does not meet the specifications for reliability; (4) regardless of its system configuration, Cellular Page cannot meet the specifications, as evidenced, for example, by "signal level calculations" prepared by Motorola, Cellular Page's supplier; and (5) MMES failed to investigate the limitations of either local paging or wide area paging under Cellular Page's specified frequency.

These allegations are untimely. Where a protest contains general allegations of improprieties which are only supported with detailed reasons in subsequent comments on an agency report, we will dismiss a protest ground as untimely because our Bid Protest Regulations do not permit the unwarranted piecemeal development of protest issues. See Acker Elec. Co., Inc.--Recon., B-250673.2, Aug. 30, 1993, 93-2 CPD ¶ 140. Further, a protest of other than apparent solicitation improprieties must be filed within 10 working days after the basis of the protest is known, or should have

been known. 4 C.F.R. § 21.2(a)(2). When a protester initially files a timely protest and later supplements it with new and additional grounds of protest, the new allegations must independently satisfy our timeliness requirements. Telephonics Corp., B-246016, Jan. 30, 1992, 92-1 CPD ¶ 130.

Here, Dial Page, at the latest, knew or should have known of all its bases for protest when it received the agency report no later than on March 2.<sup>5</sup> Thus, Dial Page had until March 16, 10 working days later, to raise new protest arguments or provide detailed arguments which amount to new protest grounds. See id. The additional allegations contained in its comments filed after March 16 were therefore untimely filed.<sup>6</sup>

The protest is dismissed in part and denied in part.

  
 Robert P. Murphy  
 Acting General Counsel

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<sup>5</sup>This protest was subject to a protective order under which counsel for the protester and the interested party were admitted. On February 23, 1994, at the protester's request, we also admitted an expert consultant who was employed by the protester to present expert opinion to our Office concerning the issues in this protest. The consultant's statement that was provided to our Office shows that he relied upon the exhibits and statements that were contained in the original agency report which the protester had received no later than March 2, 1994. These opinions expressed by the expert consultant essentially formed the basis for the new issues raised by the protester in its comments on the agency report. These comments were filed by the protester on March 29. Thus, the new issues were raised more than 10 working days after the expert consultant knew or should have been able to identify them. In any event, we think receipt of the agency report by the protester's counsel started the 10-day period for purposes of our timeliness requirements.

<sup>6</sup>The protester was granted a time extension for purposes of filing its comments due to successive requests for production of additional documents; however, this extension did not waive the timeliness rules with regard to new bases for protest. See Ebasco Constructors, Inc. et al., B-244406 et al., Oct. 16, 1991, 91-2 CPD ¶ 341.